IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 583 OF 2003

IN

SUIT NO.2141 OF 2000

M/s Kedar Metals P.Ltd .. Plaintiff

versus

M/s Auxi Chemicals Ltd .. Defendant

...

Ms.Neeta Rajda i/b Mr. Dhirsingh Rajda for Plaintiff.

CORAM : D.G. KARNIK, J

DATED : 25th February, 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None present for the defendant. Perused the affidavit of service dated 24th March, 2003 filed by the plaintiff and in the Court on 11th February, 2005. Despite service the defendant has not appeared nor filed any affidavit in reply. In the circumstances, the averments made in the affidavit in support of the

motion are deemed to be admitted. For reasons stated in paras 3 and 4 of the affidavit in support of the motion, I am satisfied that there was sufficient cause for the plaintiff for his absence at the time when the suit was dismissed in default. Hence, order of dismissal in default of Suit No. 2141 of 2000 passed by this Court on 29th January, 2003 is set aside. Suit is restored to file. The plaintiff is directed to re-serve the notice of the suit on the defendant.

D.G.KARNIK, J